

## **INDIANA PUBLIC DEFENDER COMMISSION MEETING MINUTES**

**July 28, 2004**

The meeting commenced at approximately 3:10 p.m. Present were: Chairman Norman Lefstein, Commission members Susan Carpenter, Hon. Daniel Donahue, Les Duvall, Rep. Ralph Foley, Monica Foster, Bettye Lou Jerrel, Sen. Timothy Lanane, and Rebecca McClure. Absent were: Commission members Sen. Richard Bray and Rep. Bob Kuzman. Also in attendance were Larry Landis of the Indiana Public Defender Council; Bob Borgmann, attorney for the Commission; David Cook, Susan Boatright and Mark Jones of the Marion County Public Defender Agency; and Mark Stamper, Chief Public Defender of Henry County.

1. Minutes from the March 10, 2004 meeting were reviewed and discussed. Chairman Lefstein requested that Paragraph 10 of the proposed minutes be amended to indicate that a letter would be sent to Chief Justice Shepard requesting approval for payment of noncapital reimbursement claims in the manner approved by the Commission, and that the payment would be made upon approval of the Chief Justice. The minutes were so amended and approved. Chairman Lefstein reported that the letter had been sent and approval had been received.
2. Chairman Lefstein called upon Mark Stamper, Chief Public Defender of Henry County, who discussed Henry County's three-year plan to meet Commission standards. Mr. Stamper stated that the Chief Public Defender's salary does not comply with Standard G but that the Henry County Council has approved salary increases in the amount of \$4,500 for each of the next 3 years, which will incrementally increase the Chief Public Defender's salary to bring it into compliance. Mr. Stamper further reported that the County Council has approved an additional \$14,000 in 2005 and an additional \$20,000 in 2006 for part-time contractual attorney assistance to reduce caseload pressure on the D Felony/Misdemeanor Deputy. Larry Landis indicated that in the past counties have been permitted to phase-in compliance; however, during the phase-in period only those parts that meet Commission standards would be eligible for reimbursement. Judge Donahue moved that Henry County should not receive reimbursement for the Chief Public Defender's salary until it complied with Commission standards. Judge Donahue further moved that until Henry County submits a letter listing current caseloads, payment of Henry County's reimbursement claim be withheld until the requested information is reviewed and approved by Chairman Lefstein. The motion was seconded and approved.
3. Chairman Lefstein next asked the Marion County Chief Public Defender, Dave Cook, to provide an update of the Marion County Juvenile Court. Mr. Cook stated that in February 2004, the Marion County Public Defender Agency had notified the Court that, due to excessive caseloads, in July 2004 it would refuse to accept new juvenile cases unless sufficient funds were appropriated by the City-County Council to hire additional deputy public defenders. Subsequently, a fiscal proposal appropriating \$500,000 for the Public Defender Agency was reviewed by a committee of the City-County Council and sent to the

full Council with a “Do Pass” recommendation; however, on July 19, 2004 the City-County Council tabled the proposal. On July 23, 2004, the Public Defender Agency filed with the Marion County Juvenile Court a petition requesting that no new cases be assigned to the Public Defender Agency until caseloads complied with Commission standards. The Court granted the petition and indicated that new cases would be assigned to a panel of attorneys at a cost of \$90.00 per hour until public defender caseloads met standards. Mr. Cook further reported that he had heard that the Court had issued another order requiring the Public Defender Agency to file a daily report concerning attorney caseloads, but at that time, Mr. Cook had not received a copy of the order.

Several Commission members commented on the appropriateness of the court order requiring daily reports and discussed methods of assessing current caseloads. Larry Landis introduced a method of assessing the relative weight of different types of cases in a mixed caseload to determine compliance with standards (A copy of “Attorney Workload Worksheet” prepared by Mr. Landis is attached hereto in Appendix A), and Dave Cook discussed his method determining relative case weight. Representative Foley moved that Chairman Lefstein issue a letter recognizing the Marion County Public Defender Agency’s commitment to provide effective counsel and its efforts to restrict excessive caseloads. The letter should further indicate that because of the strong action taken by the Marion County Public Defender Agency, reimbursement of Marion County’s noncapital expenses would continue. Finally, the letter should express the Commission’s concerns regarding adherence to Commission Standard K and ineffective representation resulting from excessive caseloads. The motion was seconded and approved.

4. Representative Foley left the meeting at 5:05 p.m.
5. The Commissioners who were present then considered and approved capital reimbursements as follows:

COUNTY	DEFENDANT		TOTAL
Delaware	Verner		\$12,451.82
Lake	Aki-Khuam		\$3,554.92
	Azania		\$29,369.46
	Britt		\$3,711.25
	Jeter		\$7,909.65
	Maust		\$4,299.06
	Roche		\$7,727.60
Marion	Adams1		\$570.00
	Adams2		\$2,317.10
	Dye		\$5,178.13
	Holland		\$5,659.00
	Holland2		\$6,765.25
Morgan	Pruitt		\$13,204.10
Vanderburgh	McManus		\$5,037.78

Total			\$107,755.12

Monica Foster discussed matters involving the Britt case and asked to revisit the decision concerning the \$70.00 per hour rate for old capital cases. Monica Foster agreed to draft a letter for possible submission to Chief Justice Shepard regarding this matter.

6. The Commission approved reimbursements of noncapital claims in the following amounts:

### Indiana Public Defender Commission

COUNTY	PERIOD COVERED	TOTAL EXPENSE	ADJUS'T	ADJUS'D EXPEND.	40% REIMB.
ADAMS	01/01/04-03/31/04	\$26,812.06	-\$508.70	\$27,320.76	\$10,928.30
ALLEN	01/01/04-03/31/04	\$589,942.87	\$982.28	\$588,960.59	\$235,584.24
BENTON	01/01/04-03/31/04	\$17,404.68	\$222.00	\$17,182.68	\$6,873.07
BLACKFORD	01/01/04-03/31/04	\$11,781.00	\$0.00	\$11,781.00	\$4,712.40
CARROLL	01/01/04-03/31/04	\$23,650.19	\$0.00	\$23,650.19	\$9,460.08
CLARK	01/01/04-03/31/04	\$99,208.65	\$3,858.11	\$95,350.54	\$38,140.22
DECATUR	01/01/04-03/31/04	\$41,447.88	\$14,690.32	\$26,757.56	\$10,703.02
FAYETTE	01/01/04-03/31/04	\$90,311.85	\$0.00	\$90,311.85	\$36,124.74
FLOYD	01/01/04-03/31/04	\$66,889.46	\$0.00	\$66,889.46	\$26,755.78
FOUNTAIN	01/01/04-03/31/04	\$10,978.24	\$2,469.57	\$8,508.67	\$3,403.47
FULTON	01/01/04-03/31/04	\$37,614.66	\$5,056.94	\$32,557.72	\$13,023.09
GRANT	01/01/04-03/31/04	\$151,272.70	\$19,317.70	\$131,955.00	\$52,782.00
GREENE	01/01/04-03/31/04	\$49,584.66	\$0.00	\$49,584.66	\$19,833.86
HANCOCK	01/01/04-03/31/04	\$60,699.12	\$0.00	\$60,699.12	\$24,279.65
JASPER	01/01/04-03/31/04	\$22,265.61	\$5,004.58	\$17,261.03	\$6,904.41
JAY	01/01/04-03/31/04	\$42,328.84	\$10,732.17	\$31,596.67	\$12,638.67
JENNINGS	01/01/04-03/31/04	\$15,373.02	\$0.00	\$15,373.02	\$6,149.21
KNOX	01/01/04-03/31/04	\$113,004.24	\$36,757.53	\$76,246.71	\$26,571.18
KOSCIUSKO	01/01/04-03/31/04	\$59,785.47	\$0.00	\$59,785.47	\$23,914.19
LAKE	01/01/04-03/31/04	\$669,574.55	\$0.00	\$669,574.55	\$267,829.82
LAPORTE	01/01/04-03/31/04	\$88,389.35	\$0.00	\$88,389.35	\$35,355.74
MADISON	01/01/04-03/31/04	\$366,913.66	\$3,432.36	\$363,481.30	\$145,392.52
MARION	01/01/04-03/31/04	\$1,642,399.56	\$1,831.63	\$1,640,567.93	\$656,227.17
MIAMI	01/01/04-03/31-04	\$67,120.72	\$6,925.15	\$60,195.57	\$24,078.23
MONROE	01/01/04-03/31/04	\$148,769.00	\$1,392.00	\$147,377.00	\$58,950.80
MONTGOMERY	01/01/04-03/31/04	\$56,365.35	\$27,089.11	\$29,276.24	\$11,710.50
NOBLE	01/01/04-03/31/04	\$47,382.13	\$0.00	\$47,382.13	\$18,952.85
OHIO	01/01/04-03/31/04	\$13,830.37	\$2,495.50	\$11,334.87	\$4,533.95
ORANGE	01/01/04-03/31/04	\$62,019.68	\$724.30	\$61,295.38	\$24,518.15

PARKE	01/01/04-03/31/04	\$15,090.71	\$0.00	\$15,090.71	\$6,036.28
PIKE	01/01/04-03/31/04	\$107,249.65	\$0.00	\$107,249.65	\$42,899.86
PULASKI	01/01/04-03/31/04	\$23,349.66	\$7,490.10	\$15,859.56	\$6,343.82
RUSH	01/01/04-03/31/04	\$25,373.85	\$7,237.49	\$18,136.36	\$7,254.54
SCOTT	01/01/04-03/31/04	\$31,905.60	\$4,147.73	\$27,757.87	\$11,103.15
SHELBY	01/01/04-03/31/04	\$56,194.31	\$7,631.33	\$48,562.98	\$19,661.79
SPENCER	01/01/04-03/31-04	\$21,098.79	\$0.00	\$21,098.79	\$8,439.52
STEUBEN	01/01/04-03/31/04	\$63,862.15	\$11,495.19	\$52,366.96	\$20,946.78
SULLIVAN	01/01/04-03/31/04	\$15,250.73	\$857.25	\$14,393.48	\$5,757.39
SWITZERLAND	01/01/04-03/31/04	\$25,675.50	\$3,837.70	\$21,837.80	\$8,735.12
VANDEBURGH	01/01/04-03/31/04	\$325,512.78	\$0.00	\$325,512.78	\$130,205.11
VERMILLION	01/01/04-03/31/04	\$12,743.83	\$0.00	\$12,743.83	\$5,097.53
VIGO	01/01/04-03/31/04	\$270,394.25	\$52,209.10	\$218,185.15	\$87,274.06
WARREN	01/01/04-03/31/04	\$2,138.11	\$0.00	\$2,138.11	\$855.24
WASHINGTON	01/01/04-03/31/04	\$46,738.92	\$11,292.24	\$35,446.68	\$14,178.67
WHITLEY	01/01/04-03/31-04	\$48,736.87	\$7,408.00	\$41,328.87	\$16,531.55
<b>TOTAL</b>		<b>\$5,854,783.27</b>	<b>\$252,421.50</b>	<b>\$5,602,361.77</b>	<b>\$2,237,253.78</b>

Judge Donahue abstained from voting on matters involving reimbursement for Clark County.

7. In accordance with the previously approved motion, Henry County would not be reimbursed for the salary of the Chief Public Defender, and the reimbursement would be adjusted accordingly. Payment of the adjusted reimbursement amount would be withheld pending submission of additional caseload information.
8. The Commission then considered Perry County's proposed comprehensive plan. The Commission noted that the Perry County Circuit Court judge was a party to the public defender contract and further comparison of the contract with Commission standards was requested. The proposed plan was tabled for further consideration. The Commission also requested that Staff Attorney Bob Borgmann send a letter to the Perry County Public Defender Board regarding Commission concerns and the judge's participation in the public defender contract. The Perry County claim for reimbursement was tabled pending future correspondence.
9. Bob Borgmann informed the Commission of the assignment of capital cases to public defenders in Lake County with felony caseloads exceeding Criminal Rule 24 standards. Mr. Borgmann related his conversations with David Schneider, Lake County Chief Public Defender. Felony cases for Lake County public defenders with capital cases had been reassigned, and attorney caseloads were brought into compliance with Criminal Rule 24.
10. Bob Borgmann notified the Commission that the hourly rate for capital cases had been raised from \$93.00 to \$96.00, effective January 1, 2005, in accordance with Criminal Rule 24.

11. Bob Borgmann distributed to Commission members the Capital Case Update that had been prepared by the Division of State Court Administration.

12. The next meeting of the Commission was scheduled for September 29, 2004, at 3:00 p.m.

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Norman Lefstein, Chairman

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Date